



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

December 16, 1997

In reply, please refer to:
UR&R:TE: PAP

DEC 19 1997

Universal Service Administrative Company (USAC)
100 South Jefferson Road
Whippany, NJ 07981

DOCKET FILE COPY ORIGINAL

Re: Lifeline Support

To: Administrator:

By this letter, the Connecticut Department of Public Utility Control hereby authorizes the reduction in local service rates charged to Lifeline customers.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL



Robert J. Murphy
Executive Secretary

cc: Sheryl Todd
Federal Communications Commission
Universal Service Branch
CC Docket No. 96-45
2100 M Street, N.W., Room 8611
Washington, D.C. 20554

Office of the Secretary
CC Docket No. 96-45
Federal Communications Commission, Rm. 222
1919 M Street, N.W.
Washington, D.C. 20554

Keith Krom, Esquire
Maye & Krom LLC
31 Whitney Avenue
New Haven, Connecticut 06510



RECEIVED
STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL
December 16, 1997
DECEMBER 19, 1997

In reply, please refer to:
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Universal Service Administrative Company (USAC)
100 South Jefferson Road
Whippany, New Jersey 07981

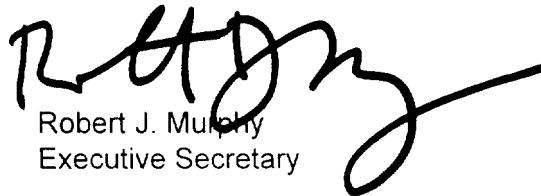
Re: Lifeline Support

To: Administrator:

By this letter, the Connecticut Department of Public Utility Control hereby notifies USAC that the Southern New England Telephone Company and Woodbury Telephone Company (collectively SNET) and the New York Telephone Company (NYTel) Lifeline programs meet the Federal Communications Commission (FCC) Lifeline Program requirements, pursuant to 4 CFR §54.401(d). Currently, SNET has approximately 61,000 customers participating in the Connecticut's Lifeline program, while NYTel has approximately 200 subscribers. In both cases Lifeline participants receive a monthly credit of \$7.00 (\$3.50 state and \$3.50 interstate).

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL



Robert J. Murphy
Executive Secretary

cc: Sheryl Todd
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New Haven, Connecticut 06510



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DEPARTMENT OF PUBLIC UTILITY CONTROL

December 16, 1997

In reply, please refer to:
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RECEIVED
DEC 19 1997

Universal Service Administrative Company (USAC)
100 South Jefferson Road
Whippany, New Jersey 07981

Re: Eligible Telecommunications Carriers

To: Administrator:

The Connecticut Department of Public Utility Control hereby designates the Southern New England Telephone Company and Woodbury Telephone Company (collectively SNET) as telecommunications carriers eligible for Universal Service support in their respective service areas within Connecticut.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL



Robert J. Murphy
Executive Secretary

cc: Sheryl Todd
Federal Communications Commission
Universal Service Branch
CC Docket No. 96-45
2100 M Street, N.W., Room 8611
Washington, D.C. 20554

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31 Whitney Avenue
New Haven, Connecticut 06510



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STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

December 16, 1997

In reply, please refer to:

UR&R:TE:PAP

Universal Service Administrative Company (USAC)
100 South Jefferson Road
Whippany, New Jersey 07981

Re: School and Library Discounts

To: Administrator:

By the Connecticut Department of Public Utility Control's (CTDPUC) May 9, 1997 Decision in Docket No. 97-02-07, DPUC Implementation of the Universal Service Provisions of the Federal Telecommunication's Act, the CTDPUC adopted in total, the Federal Communications Commission's discount matrix for schools and libraries. A copy of the Department's May 9, 1997 Decision including Connecticut's intrastate discount matrix (at page 26) is appended hereto as Attachment A.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL



Robert J. Murphy
Executive Secretary

Attachment

cc: Sheryl Todd
Federal Communications Commission
Universal Service Branch
CC Docket No. 96-45
2100 M Street, N.W., Room 8611
Washington, D.C. 20554

Office of the Secretary
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Maye & Krom, LLC
31 Whitney Avenue
New Haven, Connecticut 06510



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

DOCKET NO. 97-02-07 DPUC IMPLEMENTATION OF THE UNIVERSAL SERVICE
PROVISIONS OF THE FEDERAL
TELECOMMUNICATIONS ACT

May 9, 1997

By the following Commissioners:

Jack R. Goldberg
Janet Polinsky
Thomas M. Benedict

DECISION

DECISION

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DECISION

I. INTRODUCTION

In February of 1996, more than a year and a half after Connecticut opened its telecommunications markets to competition, the United States Congress passed the Telecommunications Act of 1996 (1996 Telcom Act or FTA), designed to overhaul US telecommunications policy and to remove the statutory and court-ordered barriers to competition among segments of the telecommunications industry. The 1996 Telcom Act also required states and the Federal Communications Commission (FCC) to work together to preserve and advance universal service, in ways consistent with the new competitive paradigm. Additionally, the 1996 Telcom Act directed the FCC to convene a Federal-State Joint Board (Joint Board) to recommend changes to the FCC's existing universal support mechanisms. Specifically, the 1996 Telcom Act directed the Joint Board to recommend, and the FCC to adopt, a new set of universal service support mechanisms that are explicit and sufficient to advance the universal service principles enumerated in the FTA and other principles that the Joint Board and FCC believe are necessary and appropriate for the protection of the public interest, convenience and necessity, and are consistent with the 1996 Telcom Act.

The 1996 Telcom Act explicitly designates elementary and secondary schools and libraries among the entities eligible to receive the benefits of universal service support. Specifically, §254(c)(3) of the FTA defines universal service for schools and libraries as telecommunications services and any additional services designated by the FCC. Additionally, the 1996 Telcom Act at §254(h)(1)(B) states that:

All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service this paragraph shall--

- (i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or
- (ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanism to preserve and advance universal service.

1996 Telcom Act, §254(h)(1)(B).

Further, §254(h)(2) of the 1996 Telcom Act requires the FCC to establish competitively neutral rules--

(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries; and

(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

1996 Telcom Act, §254(h)(B)(2).

As noted above, §254(h)(1)(B) of the FTA provides that services within the definition of universal service be provided to schools and libraries at a discount. This section also imposed several restrictions on schools and libraries receiving services funded by universal service support mechanisms. For example, schools and libraries receiving services funded by universal service support mechanisms must meet statutory eligibility criteria, may not resell any services provided under §254 of the FTA, must make a bona fide request for the services, and must use the services for educational purposes. Finally, carriers providing services to eligible schools and libraries shall be compensated for any discount they are required to grant through either an offset to their universal service obligations or reimbursement from universal service support mechanisms.

As discussed in greater detail below, the Joint Board in its November 8, 1996 Recommended Decision in CC Docket No. 96-45, In the Matter of Federal-State Joint Board on Universal Service (JB Decision), recommended that all eligible schools and libraries receive discounts of between 20% and 90% on all telecommunications services, internet access, and internal connections, subject to a \$2.25 billion annual cap¹. The Joint Board stated that it found this recommendation provided schools and libraries with the maximum flexibility to purchase the package of services they believe would be most effective to meet their respective communications needs. The Joint Board also concluded that economically disadvantaged schools and libraries, as well as schools and libraries located in high cost areas, should receive greater discounts to ensure they have affordable access to telecommunications and information services. Lastly, the Joint Board recommended that schools and libraries be required to comply with several self-certification requirements designed to ensure that only eligible entities receive universal support and that they have adopted plans for securing cost-effective access to and use of all of the services purchased under §254(h) of the 1996 Telcom Act. JB Decision, ¶¶229 and 230.

¹ The Joint Board also recommended permitting schools and libraries to carry forward any unused funds to be disbursed in subsequent years without regard to the cap. JB Decision, ¶ 230.

Pursuant to §254(h)(1)(B) of the FTA, the Department of Public Utility Control (Department) must determine the level of discount appropriate and necessary to ensure affordable access to and use of intrastate telecommunications services by elementary schools, secondary schools and libraries.

II. DOCKET SCOPE AND PROCEDURE

The Department initiated this docket, as an uncontested matter, to determine the appropriate discount rate to ensure affordable access to and use of intrastate telecommunications services by elementary schools, secondary schools and libraries. The Department established a scope of directed inquiry involving a three-step process (Position Paper, Comments and Reply Comments) to allow all who wished to participate the opportunity to express their views on whether the rate discounts proposed by the Joint Board would ensure affordable access to and use of intrastate telecommunications services by elementary schools, secondary schools and libraries.²

Specifically, the Department directed participants to address in their initial Position Paper the following areas of inquiry:

- Whether a percentage discount mechanism is an appropriate method of achieving rates less than the amounts charged for similar service to other parties;
- Whether a greater discount for economically disadvantaged schools is desirable for Connecticut and permissible under the Telecommunications Act;
- Whether participation in the national school lunch program is an appropriate measure of a Connecticut school's wealth (i.e., ensures affordable access to intrastate telecommunications services);
- Whether the six-step approach (< 1% participation in the national school lunch program; 1-19% participation in the national school lunch program, etc.) chosen by the Joint Board provides appropriate thresholds;
- Whether use of the national lunch program metric is appropriate in light of the Connecticut Supreme Court's ruling in *Sheff v. O'Neill*, 238 Conn. 1 (1996);
- Whether libraries should be eligible for discounts based on their location in a school district serving economically disadvantaged students, and whether the wealth of the district should be measured by the total percentage of students participating in the national school lunch program on a district level;

² The Department has used this process in previous proceedings and has found it to be both efficient and effective. See, for example, the Department's November 1, 1994 Decision in Docket No. 94-07-01, The Vision for Connecticut's Telecommunications Infrastructure, and the March 16, 1995 Decision in Docket No. 94-07-04, DPUC Investigation into the Competitive Provision of Local Exchange Service in Connecticut.

- Whether three cost of service categories, as proposed by the Joint Board, are sufficient to capture variations in underlying costs;
- Which parameters should be used in determining the three cost of service category thresholds;
- Whether other parameters should be used to determine the discount appropriate and necessary to ensure affordable access to and use of intrastate telecommunications services by schools and libraries in Connecticut.

Statement of Scope of the Proceeding and Procedural Order, Docket No. 97-02-07, pp. 4 and 5, February 26, 1997.

Following the submission of the Position Papers, participants were given the opportunity to submit Comments, addressing the Position Papers of others. Thereafter, participants were invited to submit Reply Comments to respond to the Comments. *Id.*, p. 6. The Department received four Position Papers, three Comments, and three Reply Comments, which serve as the springboard for the Department's discussion in this Decision.³

The Department issued a draft Decision in this docket on April 28, 1997. All participants had the opportunity to file written comments and present oral argument on the draft Decision.

III. PARTICIPANTS' POSITIONS

To put the views of the participants in the proper context and to establish a foundation for the Department's discussion in this Decision, the following sections summarize each participants submissions and identify the principal points of agreement and contention among the participants.

³ The Department received Position Papers from: the Office of Consumer Counsel (OCC); AT&T Communications of New England and Litchfield Acquisition Corporation d/b/a/ AT&T Wireless Services (AT&T); Bell Atlantic NYNEX Mobile (BANM); MCI Telecommunications Corporation (MCI) and a letter in lieu of a Position Paper from the Southern New England Telephone Company (SNET). Comments were received from The Housing and Community Development Clinic of the Jerome N. Frank Legal Services Organization (HCD), MCI and Teleport Communications Group (TCG). Reply Comments were received from the Connecticut Educational Association (CEA), MCI and SNET. The Department is also in receipt of an April 4, 1997 letter from the Joint Committee on Educational Technology (JCET) supporting the opening of this docket.

A. SUMMARY OF INDIVIDUAL SUBMISSIONS**1. The Housing and Community Development Clinic of the Jerome N. Frank Legal Services Organization (HCD)**

HCD, while supporting the Joint Board's recommended discount mechanism, states that the discount grid requires modification to ensure that the discounts reach the schools and libraries they are intended to benefit. According to HCD, because the state is considerably wealthier than the country at large, the national standards used for eligibility in the federal school lunch program may not produce the same array of discounts in Connecticut as those recommended by the Joint Board. HCD claims that in urban districts, family income alone does not fully reflect the disadvantages faced by the school system and its students, and therefore, some of Connecticut's poorest schools will not receive the level of subsidies intended for them by the Joint Board. HCD Comments, pp. 2 and 3.

HCD also argues that the Joint Board's proposed discount grid translates into a system that excludes cities such as New Haven, Bridgeport, and New London from the highest discount rate. Therefore, under the Joint Board's proposal, these public school systems would not receive the level of subsidies that were intended for the neediest communities. HCD urges the Department to adopt a plan that brings the highest subsidies to Connecticut's most troubled schools and districts as the Federal-State Joint Board intended. HCD Comments, p. 3.

To provide that these schools receive the discounts, HCD recommends the discount schedule be arrayed so that its outcome is similar to the outcome of the federal schedule. For example, if 10% of school districts were meant to receive the highest discount level nationally, the poorest 10% of school districts in Connecticut also should receive the highest discount level. HCD claims that this scheme would correct for Connecticut's wealth when measured by income level when compared to the rest of the country. HCD also recommends that the proportion of children participating in the federal school lunch program be weighted by the actual number of free/reduced price lunch-eligible children at a particular school. HCD opines that the current scheme may disadvantage the most distressed areas of cities segregated by class and race. HCD cites as an example, a district with 4,000 students and four equally sized schools (4 x 1,000), where each school has 250 free/reduced price lunch-eligible children, the district as a whole will have 25% eligible children and receive a 50% discount on telecommunications services. If three of the schools have no eligible students, however, while all students in the fourth school are eligible for the free/reduced price lunch program, the district would receive a 50% discount on the telecommunications rates at all its schools, but nothing in the current proposals will ensure that the one needy school would actually receive the benefits of those savings. HCD notes that the Department could address this problem with a mechanism that targeted the discounts on the basis of numbers of free/reduced price lunch-eligible children in particular schools.

HCD asserts that cities also need greater discounts as a result of the inequitable effects of Connecticut's property tax system because of the manner in which property tax rates are set to compensate for tax revenue shortfalls due to taxes not paid on hospital, universities and colleges and state-owned land. According to HCD, not only has this driven many property owners to suburban towns with lower property tax rates, but it has also made it extremely difficult to raise the capital necessary to make substantial infrastructure investments and to cover operating expenses in schools. HCD argues that access to the new technologies promised by universal service will require substantial investments, not only for necessary hardware, but also for the up-front costs of those telecommunications services that will be available at discounted rates. HCD also argues that cities like New Haven, Bridgeport, and New London, already burdened in raising capital by public ownership of substantial tracts of property, will find it nearly impossible to participate in the telecommunications revolution unless they receive the highest possible subsidies for their up-front investments. Therefore, HCD recommends that greater discounts be afforded to larger cities.

Additionally, HCD recommends that the Department condition discounts based on need. HCD maintains that it is important to recognize that while schools may apply individually for discounts, it is unlikely that many of the poorest schools, will do so. HCD further recommends that any money saved by a district should be earmarked for educational technology. In support of this goal, HCD suggests the Department implement a mechanism to ensure that all schools have technology plans. HCD Comments, pp. 3-5.

With respect to allocating discounts properly, HCD urges the Department to consider the need for expanded after-school and summer programs. HCD argues that it is vital that such programs be able to share in the telecommunications subsidies being offered to the schools, especially if they are operating out of the schools' facilities. HCD opines that including these schools may provide the most efficient and effective way to make sure that the discounts actually reach children in need. Similarly, HCD argues that the Department's implementation plans should ensure that facilities in distressed communities serving functions of libraries, and which are easiest for residents to access, can be certified as "libraries" for the purposes of the discount schedule. HCD Comments, pp. 5 and 6.

Lastly, HCD notes that there has been little discussion of the importance of telecommunications subsidies to health care providers. HCD maintains that affordable access to telecommunications provides one of the most efficient and effective weapons that can be placed in the hands of these providers. Data bases can improve access to patients' medical records and on-line access to diagnostic technology can greatly extend, at a very low cost, the resources available to doctors and other health care providers. HCD contends that if Connecticut were to ensure that community health clinics in urban neighborhoods have on-line access to the most up-to-date medical literature and technology, this would have a dramatic impact on the health of the residents of our inner cities. HCD Comments, pp. 6 and 7.

2. Joint Committee on Educational Technology (JCET)

The Joint Committee on Educational Technology believes that the matrix of discounts based on the free and reduced lunch percentages outlined by the Joint Board recommendations is adequate to meet the needs of Connecticut schools and libraries and urges the Department to approve its use. JCET also states that the Department should consider alternative methods for determining cost and level of need for those schools and libraries that do not participate in the free and reduced lunch program. JCET April 4, 1997 Letter to the Department.

3. Office of Consumer Counsel (OCC)

Whether a percentage discount mechanism is an appropriate method of achieving rates less than the amounts charged for similar service to other parties.

In its Position Paper, OCC agrees with the Joint Board's recommendation that a percentage discount mechanism achieves the 1996 Telcom Act's requirements that a discount be an amount that is appropriate and necessary to ensure affordable access to and use of appropriate telecommunications services by schools and libraries and that they be "specific, predictable, and sufficient . . . to preserve and advance universal service," while also promoting competition. OCC states that a percentage discount mechanism ensures that recipient schools and libraries will negotiate the best possible services at the lowest possible cost. OCC also supports the Joint Board's rationale that a percentage discount mechanism, combined with the scarcity of funds at most schools and libraries, will ensure that these institutions will only seek the discount where they are likely to take advantage of the services being offered at that discounted rate. OCC Position Paper, pp. 4 and 5.

Whether a greater discount for economically disadvantaged schools is desirable for Connecticut and permissible under the Telecommunications Act.

OCC believes that due to the demographics of Connecticut's student population and based on the constitutional requirement that the state provide all schoolchildren with substantially equal education, a greater discount may be necessary for certain Connecticut schools. OCC contends that providing discounts on intrastate telecommunications services greater than those recommended by the Joint Board is clearly consistent with the language of the 1996 Telcom Act as long as the discounting method is consistent with Section 254(f) of the FTA.

OCC also contends that §16-247(a) of the General Statutes of Connecticut (Conn. Gen. Stat.) permits greater discounts for economically disadvantaged schools and libraries. According to OCC, Connecticut's public schools and libraries are among the "public" and "not-for-profit institutions" whose ability to deliver their educational services is enhanced by advanced telecommunications services. OCC claims that §16-247(a) Conn. Gen. Stat.'s goals and provisions regarding the universal availability and accessibility of high quality, affordable telecommunications services were clearly

intended to extend to state schools and libraries (as public and not for profit institutions). As such, OCC argues that economically disadvantaged public schools and libraries in Connecticut require additional consideration to ensure that they can deliver their services effectively and efficiently. OCC Position Paper, pp. 6-8.

Whether participation in the national school lunch program is an appropriate measure of a Connecticut school's wealth (i.e., ensures affordable access to intrastate telecommunications services).

OCC also concurs with the Joint Board's recommendation to use the percentage of student participation in the national school lunch program as a generally appropriate measure of the extent to which public schools serve low income persons. OCC maintains that in Connecticut, there is a direct correlation between a school district's poverty and its children's participation in the school lunch program because children are required under state law to attend schools in the municipalities where they live. OCC notes, however, that wealth indicators alone may not be sufficient to address the Connecticut Supreme Court's ruling in *Sheff v. O'Neill*. OCC Position Paper, p. 8.

Whether the six-step approach (< 1% participation in the national school lunch program; 1-19% participation in the national school lunch program, etc.) chosen by the Joint Board provides appropriate thresholds and Whether use of the national lunch program metric is appropriate in light of the Connecticut Supreme Court's ruling in *Sheff v. O'Neill*.

Relative to the Joint Board's six-step approach, OCC suggests two changes. First, OCC believes that the six-stage proposal unnecessarily and indiscriminately includes a majority of Connecticut's schools and libraries into the 1-19% division. According to OCC, of the 147 Connecticut school districts where data were available, 105 districts or 71.4%, are captured by the 1-19% bracket. OCC claims that this bracket does not properly distinguish between schools where one child in a hundred is from a poor family and the schools where the ratio is one in five. OCC suggests that a seventh stage be created, dividing the 1-19% bracket and giving a greater discount to the schools and libraries in a new 10-19% division.⁴ OCC opines that this would more accurately acknowledge the different challenges faced by schools and libraries in this bracket. OCC Position Paper, p. 10.

Secondly, OCC notes that application of the Joint Board's proposed percent matrix to Connecticut's demography, results in only the Hartford and Ansonia School Districts falling into the highest discount category of 75-100%. OCC suggests that based on the ruling in *Sheff*, the Department should "bump" other school districts with high minority student concentrations into the highest discount rates.⁵ OCC maintains that this

⁴ CEA disagrees with the OCC's proposed modification to the discount schedule, responding that use of federal education programs like Title I are means-tested and their standards are meant to apply to all states. Application of these means-tested programs results in a larger distribution of federal funds to states with higher proportions of poor students. CEA Reply Comments, p. 5.

⁵ MCI supports the general intent of OCC's proposed modification to distinguish more precisely the level of economic hardship of schools and libraries. However, MCI disagrees with OCC's recommendation

approach is reasonable because the Joint Board's assignment of discounts to school districts based solely on the percentage of participation in the National School Lunch Program is not sufficient to mitigate the effects of the concentration of minorities in Connecticut cities other than Hartford and Ansonia.⁶ OCC states that as the Connecticut Supreme Court found in *Sheff*, minority concentrations are correlated with "pockets" of increased poverty and lower test scores. OCC Position Paper, pp. 10-12.

Whether libraries should be eligible for discounts based on their location in a school district serving economically disadvantaged students, and whether the wealth of the district should be measured by the total percentage of students participating in the national school lunch program on a district level.

OCC recommends that the Department consider the mapping problems described in comments filed by the American Library Association (ALA) in CC Docket No. 96-45. Specifically, the ALA commented in that proceeding that a formula based on a free or reduced cost school lunch program eligibility is not appropriate for most libraries because they would not necessarily have easy access to information that would allow them to map their service areas against school lunch programs. According to OCC, ALA suggested that other easier to implement solutions be made available. OCC states that the simplest method may be to tie the discount level for a library to the school district where it is located. Therefore, OCC recommends that every possible effort be made to ensure that Connecticut's libraries are provided telecommunications discounts at a level appropriate to the needs of their constituents. OCC Position Paper, p. 12.

Whether three cost of service categories, as proposed by the Joint Board, are sufficient to capture variations in underlying costs and Which parameters should be used in determining the three cost of service category thresholds.

OCC recommends that the Department establish intrastate discounts that focus on low income and concentrated minority school districts and libraries. OCC opines that because the most economically disadvantaged schools and libraries are likely to be found in population-dense inner cities, it is likely that they will fall into the "low cost" category under the Joint Board's recommended system. OCC recommends that cost of service not be a determining factor in discount distribution unless it can be shown that a

to bump other school districts with high minority student concentrations. According to MCI, its analysis suggests that the Joint Board's proposed use of school lunch program enrollment will properly capture economic need of all of Connecticut's school districts. MCI states that the distribution of Connecticut's schools across the Joint Board's economic hardship categories is as expected given the high levels of wealth and income of the state. MCI Comments, p. 5.

⁶ MCI also disagrees with OCC's position that the Joint Board proposal is not sufficient to mitigate the effects of the concentration of minorities in Connecticut. MCI argues that OCC has not provided evidence that ethnic concentrations in Connecticut result in an education resource problem separate from that indicated by the poverty level of the school district. MCI encourages OCC to pursue more precise measures of economic hardship for the Department's consideration in addressing the issues raised by *Sheff*. MCI Comments, p. 6.

significant number of economically disadvantaged or minority concentrated schools or libraries are located in "high cost" regions. OCC Position Paper, p. 13.

Whether other parameters should be used to determine the discount appropriate and necessary to ensure affordable access to and use of intrastate telecommunications services by schools and libraries in Connecticut.

OCC maintains that any discounted rate program for schools and libraries must ensure that the development of competition is not impeded by imposing disproportionate or undue costs on new entrants. OCC contends that its proposed adjustments are appropriate and necessary to ensure affordable access to and use of intrastate telecommunication services by schools and libraries in Connecticut. OCC Position Paper, p. 14.

4. AT&T Communications of New England and Litchfield Acquisition Corporation d/b/a AT&T Wireless Services (AT&T)

AT&T states that it supports the 1996 Telcom Act's mandate to require telecommunications service providers to give discounts to qualified schools and libraries. AT&T contends that discounts on intraLATA services should be based on objective, clear, and easily administered criteria. AT&T recommends that reasonable limits be placed both on eligibility and the size of the discounts to assure that the fund remains financially viable. AT&T cites as an example, the requirement that schools meet the statutory eligibility requirements of the Elementary and Secondary Education Act of 1965, in that schools not have an endowment of more than \$50 million and not be a "for profit" business. AT&T also notes that libraries must meet similar criteria provided for under Title III of the Library Services and Construction Act. Additionally, AT&T recommends that telecommunications services providers be encouraged to work with Connecticut authorities to expand voluntary programs offered to schools and libraries. AT&T Position Paper, pp. 1-3.

Regarding the Department's questions, AT&T offers the following:

Whether a percentage discount mechanism is an appropriate method of achieving rates less than the amounts charged for similar service to other parties.

AT&T states that a percentage discount mechanism is the appropriate method and endorses the FTA's approach of requiring telecommunications service providers to give discounts to qualified schools and libraries to enhance their access to advanced telecommunications services. AT&T opines that should the FCC adopt the Joint Board's recommendation, the Department must establish intrastate discounts at least equal to the discounts on interstate services for an eligible Connecticut school or library to receive federal universal service support. AT&T Position Paper, p. 3.

Whether a greater discount for economically disadvantaged schools is desirable for Connecticut and permissible under the Telecommunications Act.

AT&T maintains that a greater discount (i.e., toward the higher end of the range recommended by the Joint Board) for economically disadvantaged schools is permissible under the 1996 Telcom Act. According to AT&T, if the FCC adopts this recommendation, the level of discount would be based on the economic standing of the school's student population measured by eligibility for the national school lunch program. Consequently, a school with a very poor student body would qualify for the deepest discount. AT&T notes that a school is not required to participate in the national school lunch program to be eligible for a discount. Such schools need only certify the percentage of students who would be eligible for the national school lunch program. AT&T Position Paper, p. 4.

Whether participation in the national school lunch program is an appropriate measure of a Connecticut school's wealth (i.e., ensures affordable access to intrastate telecommunications services).

AT&T generally concurs that participation in the national school lunch program is an appropriate measure of a Connecticut school's wealth. According to AT&T, the Joint Board found that basing discounts on the percentage of students eligible for the national school lunch program is least administratively burdensome in that it has a well-defined set of eligibility criteria and data gathering requirements that are familiar to most schools. AT&T Position Paper, p. 5.

Whether the six-step approach (<1% participation in the national school lunch program; 1-19% participation in the national school lunch program, etc.) chosen by the Joint Board provides appropriate thresholds.

AT&T generally agrees that the six-step approach chosen by the Joint Board provides appropriate thresholds. AT&T states that the Joint Board's recommendation regarding the principles in determining the final matrix should ensure that the greatest discounts go to the most disadvantaged schools and libraries, keeping within the proposed discount range of 20% to 90%. AT&T Position Paper, pp. 5 and 6.

Whether use of the national school lunch matrix is appropriate in light of the Connecticut Supreme Court's ruling in *Sheff v. O'Neill*.

AT&T contends that using the national school lunch program metric on a school by school basis to determine need, as proposed by the Joint Board, will likely result in the schools attended by the *Sheff* plaintiffs being eligible for higher discounts on telecommunications services than other schools. AT&T states that improving educational opportunities for these students by making telecommunications service more accessible is entirely consistent with the thrust of the *Sheff* decision. AT&T maintains that since no new redistricting plan is in place at this time, it is premature to decide now whether using the national school lunch metric will continue to be appropriate in the future. AT&T Position Paper, pp. 6 and 7.

Whether libraries should be eligible for discounts based on their location in a school district serving economically disadvantaged students, and whether the wealth of the district should be measured by the total percentage of students participating in the national school lunch program on a district level.

AT&T opines that should the FCC adopt the Joint Board's recommendation, libraries would receive the level of discounts representing the average discount offered to the school district in which it is located. According to AT&T, the Joint Board found that basing discounts on the percentage of students eligible for the national school lunch program is least administratively burdensome in that it has a well-defined set of eligibility criteria and data gathering requirements. AT&T Position Paper, pp. 7 and 8.

Whether three cost of service categories, as proposed by the Joint Board, are sufficient to capture variations in underlying costs.

AT&T states that although the Joint Board has not specified how it will differentiate between high, medium, and low cost areas, these cost categories are probably sufficient to capture any cost variations within the state. AT&T also states that it would need to understand how these three cost categories would be applied in Connecticut before it could make a final determination on this issue. AT&T Position Paper, p. 9.

Which parameters should be used in determining the three cost of service category thresholds.

AT&T suggests that when this decision is made at the federal level, the Department consider using similar metrics for the purposes of consistency. AT&T Position Paper, pp. 8 and 9.

Whether other parameters should be used to determine the discount appropriate and necessary to ensure affordable access to and use of intrastate telecommunications services by schools and libraries in Connecticut.

AT&T states that it believes the bona fide request process contained in §254(h)(1)(B) of the FTA should ensure that the discounted services requested are for "educational purposes." AT&T recommends that the individual school or library, as well as the appropriate administrative authority (e.g., school or library board), certify that the discounted telecommunications services (including the transmission capacities) requested are necessary and appropriate given the institutional plan for the applications supported and that the services will be used for the stated purpose. AT&T also recommends that the certification include a statement that the associated hardware, software, wiring, on-site networking and training will be deployed simultaneously with the discounted telecommunications services. Further, AT&T suggests that the qualifying institution also acknowledge that resale of these specially discounted telecommunications services is prohibited and that it will not resell any such service.

Finally, AT&T recommends eligible institutions not have an endowment of more than \$50 million and not be a "for profit" business. AT&T Position Paper, pp. 9 and 10.

5. Bell Atlantic NYNEX Mobile, Inc. (BANM)

BANM argues that the 1996 Telcom Act does not require commercial mobile radio service (CMRS) providers such as BANM to fund or participate in either the lifeline or universal service programs. Accordingly, BANM believes the issues set forth in the Department's February 26, 1997, Procedural Order are not germane to BANM at this time. BANM Position Paper, pp. 1-3.

6. MCI Telecommunications Corporation (MCI)

MCI states that it is fully supportive of the Department's efforts to establish a universal service fund for Connecticut. MCI also states that the Joint Board's proposed discount mechanism is a reasonable starting point for Connecticut to begin the process of establishing a universal assistance fund for the state's schools and libraries. While noting that there are shortcomings using student enrollment in the national school lunch program as a measure of the degree of economic hardship in the school district, MCI opines that lunch program enrollment appears to result in a funding mechanism that satisfies the criteria of Section 254 of the FTA.

Additionally, MCI opines that unlike the Joint Board's proposed hardship measure, its proposed measure of relative cost of service is deficient and inadequate. MCI contends that cost of service measurement on an aggregate level such as that proposed by the Joint Board does not satisfy the criteria for such a measure mandated in Sections 254(b)(5) and 254(h)(1)(B) of the 1996 Telcom Act. Therefore, MCI opposes the use of an aggregate cost of service measure such as that proposed by the Joint Board. As an alternative, MCI proposes that costs be determined on school district specific basis. According to MCI, only in that way can the universal service assistance for schools and libraries in Connecticut be properly targeted as envisioned in the Federal Act. MCI Position Paper, pp. 12 and 13; MCI Comments, p. 3.

In response to the Department's questions, MCI provided the following responses:

Whether a percentage discount mechanism is an appropriate method of achieving rates less than the amounts charged for similar service to other parties.

MCI states that it believes a discount mechanism is an appropriate method to meet the objectives of Connecticut's universal service effort, and that the key issue is utilizing an appropriate base upon which the discount may be calculated. According to MCI, Section 254(h)(1)(B) of the 1996 Telcom Act mandates that services subject to the universal service effort be made available upon a bona fide request at rates less than the amounts charged for similar services to other parties. Lacking clarification on the meaning of "similar services" and "other parties," and the lack of specificity on other key

parameters of the universal service plan, MCI opines that it is not able to more completely address this question. MCI Position Paper, p. 5.

Whether a greater discount for economically disadvantaged schools is desirable for Connecticut and permissible under the Telecommunications Act.

MCI contends that the level of discount can by law, and should as a matter of state universal service policy, reflect the degree to which any school or library is disadvantaged. MCI claims that through such a mechanism, universal service assistance can be targeted to educational institutions and libraries in direct proportion to their demonstrated need, thereby ensuring that the State's universal service effort is sufficient. Therefore, MCI concludes that discounts which rise with the level of economic hardship facing a school or library is permitted under the FTA and is consistent with a sound state universal service policy. MCI Position Paper, p. 6

Whether participation in the national school lunch program is an appropriate measure of a Connecticut's school's wealth (i.e. ensures affordable access to intrastate telecommunications services).

MCI takes the position that in Connecticut, the enrollment of each school in the national school lunch program appears to be a reasonable proxy for that school's economic status and universal service funding requirement. MCI maintains that to the extent that a specific school system is not taking full advantage of the national lunch program or a needy school is not eligible for the national school lunch program, their true universal service funding requirement can be determined by assuming that all students that are eligible for the national school lunch program are actually enrolled. MCI also comments that the hardship-related mechanism proposed by the Joint Board is appropriate and necessary to ensure affordable access to and use of the pertinent telecommunications services for educational purposes only if other key elements of the universal service program are properly established. MCI Position Paper, p. 7; MCI Comments, p. 4.

Whether the six-step approach (<1% participation in the national school lunch program; 1-19% participation in the national school lunch program, etc.) chosen by the Joint Board provides appropriate thresholds.

MCI states that the difficulty in assessing the appropriateness of the specific participation/assistance levels proposed by the Joint Board stems from the lack of specificity on other relevant parameters defining the universal service fund to be adopted under Section 254(h)(1)(B) of the FTA. MCI cites as an example, the participation/assistance levels not considering the range of services over which the universal service effort is to be directed, the measure of revenue used to determine funding, or the benchmark used to determine fund disbursement. MCI contends that the Department and the FCC must consider those factors in conjunction with the participation/assistance levels to ensure the viability of the fund. MCI also contends that overburdening a telecommunications carrier with universal funding responsibilities may thwart not only the objective of the universal service effort, but may imperil the

achievement of other public policy goals, such as the development of effective competition. MCI Position Paper, p. 8.

Whether use of the national school lunch program metric is appropriate in light of the Connecticut Supreme Court's ruling in *Sheff v. O'Neill*.

MCI believes that if the service area is defined appropriately small and narrow and other features of the universal service program that are not part of the Department's current investigation are properly determined, the appropriate level of funding will be available to support the education-related telecommunications requirements demanded by the state for all of its schools. MCI contends that any unique telecommunications needs of specific localized areas of Connecticut will be identified by "fine tuning" the cost of service analysis and funding requirements' assessments. MCI Position Paper, pp. 8 and 9.

Whether libraries should be eligible for discounts based on their location in a school district serving economically disadvantaged students, and whether the wealth of the district should be measured by the total percentage of students participating in the national school lunch program on a district level.

MCI states that the metric proposed by the Joint Board to measure economic hardship of schools and enrollment in the national school lunch program, is a reasonable proxy of the economic welfare and universal funding requirements of public libraries located in the district. As such, MCI suggests that schools and the libraries within the school district be treated the same with respect to the measure of economic hardship. MCI Position Paper, p. 9.

Whether three cost of service categories, as proposed by the Joint Board, are sufficient to capture variations in underlying costs.

MCI believes that relative costs and universal service funding requirements of school districts and libraries within the districts be measured on a school district by school district basis. Noting that SNET has previously proposed a four category disaggregation of its costs that recognizes that costs differ significantly across metro, urban, suburban and rural, MCI posits that neither the Joint Board's proposed three cost level categories nor SNET's four cost level categories are sufficient or appropriate in establishing a universal service program for Connecticut.

As noted above, MCI believes that selecting the appropriate geographic area over which to measure costs is critical in determining the appropriate and necessary levels of assistance for each school and library in Connecticut. According to MCI, averaging the costs of providing telecommunications services to schools and libraries over a broad area will conceal much of the relevant variation in actual costs within the area. As a result, the highest cost locations within an area will be under-funded while the premises with costs lower than the area-wide average will be over-funded, producing a universal service program for schools and libraries that is inefficient and

unpredictable in its funding. MCI claims that the lack of cost specificity will produce insufficient funding for some locations and inappropriately over-fund others.

In an effort to target universal service assistance to the most needy, MCI proposes that the costs of each school district be used to assess the need for high cost assistance. MCI argues that measuring costs and funding requirements at the school district level will ensure that the universal assistance program established for schools and libraries in Connecticut is sufficient, predictable and specific as required in Section 254(b)(5) of the FTA. MCI proposes that the Hatfield Model be employed to establish the cost of service and funding requirements for Connecticut's universal service fund so that the State's universal service program meets the requirements of the 1996 Telcom Act.⁷ MCI Position Paper, pp. 9 and 10; MCI Comments, p. 4.

Which parameters should be used in determining the three cost of service category thresholds.

As noted above, MCI does not believe that three cost of service categories is an appropriate level of disaggregation. MCI proposes that the Hatfield Model be used to establish the cost of service and the funding requirements for Connecticut's universal service program. MCI maintains that use of narrowly defined cost of service categories will permit targeting of universal service assistance to the needy centers of learning and will ensure the efficient utilization of universal service assistance funds. MCI also claims that the universal service program will provide funding that is specific, predictable and sufficient as required by Section 254(b)(5) of the 1996 Telcom Act, and will ensure affordable access to and use of educational telecommunications services by schools and libraries as mandated by Section 254(h)(1)(B) of the FTA. MCI Position Paper, pp. 10 and 11.

Whether other parameters should be used to determine the discount appropriate and necessary to ensure affordable access to and use of the intrastate telecommunications services by schools and libraries in Connecticut.

MCI opines that it is not aware of other parameters that will enhance the effectiveness of Connecticut's universal service efforts. While noting that the use of student enrollment in the national school lunch program is imperfect as a proxy for the economic hardship of the school district, MCI opines that it does provide a reasonable measure of the need for assistance. MCI comments that other measures such as district spending per pupil, school budget, and district tax base have disadvantages and may provide incentives to game the measures of economic hardship and may otherwise be misleading in assessing the need for universal service assistance. MCI states that

⁷ SNET opposes the introduction of the Hatfield model into this docket, arguing that the correct methodology to determine the cost of service is being fully addressed in DPUC Docket No. 96-09-22, DPUC Investigation into the Southern New England Telephone Unbundled Loops, Ports and Associated Interconnection Arrangements and Universal Service Fund in Light of the Telecommunications Act of 1996. Reply Comments, pp. 4-5. As participants to that docket are aware, by letter dated January 10, 1997, the Department postponed consideration of any universal service in Docket No. 96-09-22.

the spending per student as a measure of economic hardship could encourage towns to decrease the taxpayer funding for schools since some or all of it would be made up in universal service assistance. MCI also states that other measures of economic hardship such as the town tax base indicates very little about that town's commitment to education or its school age demographics. MCI Position Paper, pp. 11 and 12.

7. Southern New England Telephone Company (SNET)

SNET states that it supports a funding methodology for any subsidy mechanism that is competitively neutral, explicit, and economically sound. SNET believes that the states are best situated to determine the unique needs of their differing populations and economic realities and to design mechanisms that meet those needs. SNET recommends that funding mechanisms for educational support, low income consumers, and rural health care providers be established separately. According to SNET, this will preserve the integrity of each program and ensure that funding is not commingled with current implicit and explicit subsidies.

Additionally, SNET states that it supports the Department's initiative to determine the amount of discount necessary to facilitate affordable access by Connecticut's schools and libraries to the federal universal service program. Provided that the FCC approves the Joint Board's recommendations, SNET agrees that the discount mechanism recommended by the Joint Board is the minimum discount appropriate for the state's educational institutions and libraries. SNET Reply Comments, p. 3.

SNET states that the subject matter of this docket should be limited to approval of a set of discounts that are, at a minimum, appropriate for Connecticut to ensure affordable access to, and use of, intrastate telecommunications services by educational institutions and libraries. Consequently, SNET opposes the introduction of issues by other participants that, according to SNET, expand the scope of this proceeding. SNET therefore argues that modifications that would increase the discount structure proposed by the Joint Board are inappropriate because the Joint Board's recommendation did not indicate whether federal funding would support intrastate service discounts greater than those in its proposal. Because greater discounts might be funded by state funds, SNET argues that it might be more appropriate for the Department to initiate a proceeding to address universal service issues particular to Connecticut after the FCC's Universal Service Order is released. SNET Reply Comments, p. 4.

8. Teleport Communications Group, Inc. (TCG)

TCG, while concurring with the Department's February 26, 1997 Procedural Order, states that the Department's sole responsibility is to determine the appropriate discount rate to ensure affordable access. Consequently, TCG proposes that the terms and conditions governing the application of the discounted rate have two substantial public policy considerations. Specifically, TCG states that the discounted rate should take into consideration the following: (1) Is the rate design of the discount such that discounted rates are consistent with the promotion of competition in the provision of advanced services to schools, hospitals and libraries; and (2) Does the rate design

promote economic efficiency so that schools, hospitals and libraries can truly maximize the value of their discount and their access to advanced services? TCG Comments, p. 1.

TCG argues that the Department's responsibility to promote access to advanced services by schools, hospitals and libraries (SHL) should be advanced and maintained in a manner not only compatible with competition, but in a way that takes advantage of market forces to bring more choices and better quality at more affordable prices to these designated consumers. TCG supports the Joint Board's recommendation to add competitive neutrality to the list of fundamental principles of universal service enumerated in the 1996 Telcom Act. TCG Comments, p. 2.

TCG also supports competitive bidding as a fundamental prerequisite to a "bona fide request" for support.⁸ Accordingly, TCG recommends that schools and libraries that have previously contracted with SNET be required to reopen those contracts to bidding if their carrier is to receive support.⁹ TCG also opines that the Joint Board's recommendation to initiate Requests for Proposals (RFP) via an internet web page will minimize any burden SHLs may shoulder as they take advantage of their new freedoms. TCG contends that RFPs for support eligible contracts should be limited to one round of sealed bids because this approach would not only minimize the burdens on the schools and libraries, but would also encourage best behavior on the part of carriers. TCG Comments, pp. 2 and 3.

TCG is also concerned that the Joint Board's recommendation could be misinterpreted as to weaken the RFP requirement by permitting existing contracts between SNET and SHLs to remain in place without requiring competitive bidding for RFPs. TCG notes that while in some instances existing contracts had been awarded via competitive bidding, the nascent state of competition could not assure that these contracts were awarded to the incumbent local exchange carrier by default. TCG maintains that if these contracts are permitted to remain in place, competitors will be effectively barred from significant markets. As a consequence schools, hospitals and libraries will remain captives of the incumbent monopolist. TCG argues that even though schools may enjoy the benefits of a discount, they would be deprived the benefits of innovation, quality and responsiveness that competition ensures. TCG Comments, p. 4.

Therefore, TCG recommends that SHLs be permitted to elect the lower of 1) the lowest RFP inclusive of the discount or 2) their current grandfathered rate, but only if the grandfathered rate, inclusive of the discount, is the lowest bid. TCG opines that the discount in the latter option only be exercisable after the SHL has conducted the mandatory RFP. According to TCG, this would assure Congress' vision that SHLs

⁸ MCI also supports the use of competitive bidding as a prerequisite to a bona fide request for support. MCI Reply Comments, p. 1.

⁹ According to SNET, issues surrounding a "fresh look" at existing contracts exceed the scope of this docket and are addressed by the Joint Board in its Recommended Decision at ¶ 572. SNET Reply Comments, p. 4.

receive the benefits of both competition and a lower rate than they currently pay. TCG Comments, p. 4.

TCG also supports the concept of a discount matrix but notes that the cost dimension of the affordability matrix could be better defined by determining what constitutes a high cost area. TCG states that the proxy models under study by the FCC should provide an adequate indication of the relative costs of serving one area versus another. TCG recommends following the FCC's future decision on their use for this purpose. TCG Comments, p. 5.

Additionally, TCG agrees with the Joint Board's recommended criteria for a bona fide request for support. Specifically, TCG agrees with the Joint Board's recommendation for: (1) a formal plan by the SHL; (2) an RFP posted on the fund administrator's website; and (3) an affidavit by an SHL authority verifying the educational intents and purposes of the services to be purchased. TCG contends that these criteria and the requirement that all SHLs pay at least a portion of the cost of the service will ensure that the funds are spent wisely and where they are most needed. TCG also contends that implementation of these criteria will mitigate any concern that uneconomic purchases might result from the promise of "free" money to buy attractive new telecommunications services simply because the money appears to be readily available, and further alleviates concerns that the price signals would be distorted. TCG Comments, p. 5.

Lastly, TCG states that it supports the Joint Board's recommendation to select an independent administrator to manage the universal service fund. TCG concurs that the National Exchange Carrier Association (NECA) is not qualified as an independent administrator and should not be considered for this role, even for an interim period. Although the time frame for implementing the fund for schools and libraries is relatively short, TCG believes there is sufficient time to conduct a search for a capable administrator, eliminating the need to employ NECA as an interim administrator. TCG recommends that similar to the RFP requirement for schools and libraries, the FCC (or its designee) should initiate an RFP for a fund administrator. According to TCG, this approach would minimize the cost of administering the fund and ensure its independence. TCG Comments, p. 6.

9. The Connecticut Education Association (CEA)

Whether a percentage discount mechanism is an appropriate method of achieving rates less than the amounts charged for similar service to other parties.

CEA agrees with the positions taken by others relative to the use of a percentage discount mechanism to achieve rates charged to schools and libraries that are less than the amounts charged for similar service to other parties. This methodology, CEA states, will encourage the judicious use of available universal service funds by schools and libraries, will obligate those institutions to seek the lowest possible prices from competing providers, and will ensure that those institutions will